

**RULES
OF THE
TENNESSEE DEPARTMENT OF PERSONNEL**

**CHAPTER 1120-11
GRIEVANCE**

TABLE OF CONTENTS

1120-11-.01	Purpose	1120-11-.06	Scope of Procedure
1120-11-.02	Policy	1120-11-.07	Grievable Matters
1120-11-.03	Responsibility	1120-11-.08	Exceptions and Non-Grievable
1120-11-.04	Basic Standards		Matters
1120-11-.05	Procedures	1120-11-.09	Technical Advice and Assistance

1120-11-.01 PURPOSE. To provide clear, orderly and expedient procedures through which all career or permanent employees of the State service may process bona fide complaints or grievances.

Authority: T.C.A. §8-30-328. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2).
Repeal and new rule filed November 18, 1987; effective January 2, 1988.

1120-11-.02 POLICY.

- (1) Career and permanent employees will be given every opportunity to resolve bona fide complaints or grievances through established procedures. Every reasonable effort will be made to resolve complaints at the lowest possible step in the procedure.
- (2) Employees using this procedure will be entitled to process their complaints or grievances without fear, interference, discrimination, or reprisal.

Authority: T.C.A. §8-30-328. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2).
Repeal and new rule filed November 18, 1987; effective January 2, 1988.

1120-11-.03 RESPONSIBILITY.

- (1) The Commissioner will be responsible for providing and maintaining the basic standards and guidelines for implementing this rule chapter.
- (2) Appointing authorities will be responsible for the proper effectuation of this rule chapter throughout their respective agencies. Modification of these procedures may be made in order to satisfy unusual circumstances within an agency if such modification is approved by the Commissioner.
- (3) Appointing authorities will be responsible for ensuring that all employees and supervisory personnel are aware of the provisions of this rule chapter.

Authority: T.C.A. §8-30-328. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2).
Repeal and new rule filed November 18, 1987; effective January 2, 1988.

1120-11-.04 BASIC STANDARDS.

- (1) A complaint or grievance must be filed at the appropriate step in the grievance procedure within fifteen (15) workdays (Monday - Friday, 8:00 a.m. - 4:30 p.m.) of the action which is the basis for the grievance, otherwise it will be considered untimely and invalid.
- (2) Although no standard grievance forms are provided, agencies may develop and make available such forms to employees. No grievance may be denied because a standard form adopted by an agency has not been used.
- (3) A grievant may represent himself at any step in the procedure.
- (4) At the informal hearing before the appointing authority, an attorney or a representative of an employee may speak on behalf of the employee.
- (5) Legal counsel may represent a grievant before the Civil Service Commission, which is the final step of this procedure. The grievant and the agency may have counsel present at discussions prior to the final step. The presence of other observers at discussions prior to the final step of this procedure is at the discretion of the manager or supervisor in charge of that discussion.
- (6) Grievants may present grievances during business hours or other mutually agreeable hours as work situations may require. Grievance discussions held during the scheduled off-duty hours for a grievant, witness, or representative will be considered the same as overtime work. Grievants or employees who are required to appear as witnesses or representatives will not be required to use leave for such periods and shall be reimbursed for travel and other expenses in accordance with the comprehensive travel regulations.
- (7) Grievances concerning suspension without pay must be appealed to the lowest management level in the organization with authority to overturn the suspension.
- (8) Grievances concerning dismissal should be appealed directly to the appointing authority, warden, or superintendent.
- (9) Grievances concerning alleged discrimination prohibited by T.C.A. 8-50-103 or T.C.A. 4-21-401 may be appealed directly to the appointing authority, warden, or superintendent through this procedure. If the aggrieved is unsatisfied with the decision, the grievance and the appointing authority's response may be appealed to the Commission within thirty (30) days or the Tennessee Human Rights Commission as provided in T.C.A. 8-50-103(b).
- (10) Grievance decisions should be communicated in writing directly to the grievant in a timely manner as outlined in Chapter 1120-11-.05. Certified or registered mail is mandatory if a decision must be mailed. Hand delivered grievance decisions should include a written heading indicating "Hand Delivered" with a place for a signature.
- (11) Grievances must be expressed in reasonable terms. Each grievance submitted should contain:
 - (a) the basis for the grievance;
 - (b) the settlement or corrective action desired by grievant; and
 - (c) sufficient facts or other information to begin an investigation.

Authority: T.C.A. §8-30-328. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2). Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Amendment filed October 25, 1995; effective February 28, 1996. Amendment filed May 6, 1996; effective July 20, 1996.

1120-11-.05 PROCEDURES. The appropriate entrance step is determined by the grievant's relative level in the organization. Procedures shall not be more than five (5) steps to finality as follows:

- (1) Step I - Grievant's immediate Supervisor (verbal)
 - (a) Verbal discussion with supervisor within fifteen (15) workdays of cause.
 - (b) Supervisory investigation and fact finding.
 - (c) Decision clearly communicated to grievant within five (5) workdays of discussion.
- (2) Step II - Next Appropriate Higher Level of Management (written)
 - (a) Written grievance submitted to appropriate manager within ten (10) workdays of receipt of Step I decision.
 - (b) Informal discussion or hearing of facts and allegations.
 - (c) Investigation, fact finding, and written decision communicated to grievant within ten (10) workdays of discussion.
- (3) Step III - Next Appropriate Higher Level of Management (written)
 - (a) Written grievance and prior step decision submitted to next appropriate manager within ten (10) workdays of receipt of decision from Step II.
 - (b) Informal discussion or hearing of facts and allegations with witnesses and documentation.
 - (c) Investigation, fact finding, and written decision clearly communicated to grievant within ten (10) workdays of discussion.
- (4) Step IV (written)
 - (a) Written grievance and prior step decision submitted to the appointing authority or designee within ten (10) workdays of receipt of decision from Step III.
 - (b) Informal discussion or hearing of facts, allegations, and testimony by appropriate witnesses as determined by the appointing authority or designated representative as soon as practical. Whenever possible, the fourth step hearing shall be conducted by a manager who had no input to or involvement in the original decision to discipline.
 - (c) Investigation, fact finding, and written final agency decision communicated to grievant within ten (10) workdays of discussion.
 - (d) The appointing authority shall have full authority to overturn, reduce, or alter any disciplinary action based on information gathered at the step IV hearing including reinstatement of leave and awards of backpay, if appropriate, which may be offset by income earned from alternative employment or unemployment insurance payment received.
- (5) Step V (Formal - Career Employee only)
 - (a) Written grievance and all relevant documentation shall be submitted within thirty (30) days of receipt of decision from Step IV to:

(Rule 1120-11-.05, continued)

Secretary, Civil Service Commission
Tennessee Department of Personnel
Second Floor, James K. Polk Building
Nashville, TN 37243-0635

- (b) Hearings will be held pursuant to T.C.A. §8-30-328 and the Uniform Administrative Procedures Act.
- (6) The time limits set herein may be extended not in excess of six (6) months by written agreement between the manager involved and the employee. Failure of management to proceed within established time limits entitles the grievant to proceed to the next step in this procedure.
- (7) Hearings conducted at Step V will conform to the model rules of the Secretary of State for contested cases and the Department hereby adopts Secretary of State rule 1360-4-1 in statutory compliance.

Authority: T.C.A. §8-30-328 and T.C.A. §4-5-219. . **Administrative History:** (For history prior to January 2, 1988, see pages 1-2). Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

1120-11-.06 SCOPE OF PROCEDURE.

- (1) The Commission will serve as the final step for all grievances by career employees.
- (2) The agency appointing authority will serve as the final step for all grievances by permanent employees.

Authority: T.C.A. §8-30-328. . **Administrative History:** (For history prior to January 2, 1988, see pages 1-2). Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 25, 1994. Amendment filed October 25, 1995; effective February 28, 1996. Amendment filed May 6, 1996; effective July 20, 1996.

1120-11-.07 GRIEVABLE MATTERS.

- (1) Disciplinary suspension or demotion.
- (2) Disciplinary dismissal.
- (3) Involuntary geographical transfer of an employee or official duty station more than fifty (50) miles. Distance will be determined by drawing a circle, with a 50 mile radius, centered on the previous official duty station.
- (4) Non-compliance with an approved reduction in force plan by an appointing authority.
- (5) Prohibited political activity as outlined in T.C.A. Title 2, Chapter 19 ("The Little Hatch Act").
- (6) Coercion of an employee to "waive" his right to consideration on a certificate of eligibles.
- (7) Performance evaluations under certain circumstances to the fourth step.
- (8) Other matters within the discretion or control of the appointing authority or the Commission.

(Rule 1120-11-.07, continued)

Authority: T.C.A. §8-30-328. . **Administrative History:** (For history prior to January 2, 1988, see pages 1-2). Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Amendment filed October 25, 1995; effective February 28, 1996. Amendment filed May 6, 1996; effective July 20, 1996.

1120-11-.08 EXCEPTIONS AND NON-GRIEVABLE MATTERS.

- (1) Actions that affect employees who are not career or permanent employees.
- (2) Actions that affect an employee serving an initial probationary period.
- (3) Normal supervisory counseling.
- (4) Non-selection for promotion when the appointment was in compliance with these rules and the Act.
- (5) Verbal and written reprimands.
- (6) Performance award decisions.
- (7) Actions resulting from suggestions adopted by the State Employee Suggestion Award Board.
- (8) Actions resulting from reductions in force when an approved reduction in force plan was followed.
- (9) Shift, post, and overtime assignments.
- (10) Reasonable work assignments outside those normally associated with the employee's assigned job classification.
- (11) Salary range assigned to classification.
- (12) Classification of position.
- (13) Denial of leave requests except as provided for in T.C.A. §§8-50-801 and T.C.A. 8-50-110.
- (14) Matters relating to internal agency or program management which are based on discretionary decision making.
- (15) Demotions during subsequent probation, if such demotion is to the job classification from which the employee was promoted and at a salary rate no lower than the salary rate had the promotion not occurred.
- (16) Agency rules or policies which do not conflict with statutes or rules of the Department of Personnel.
- (17) Any other matter over which an appointing authority or the Commission has no control or jurisdiction or is without the authority to grant requested relief.

Authority: T.C.A. 8-30-328. . **Administrative History:** (For history prior to January 2, 1988, see pages 1-2). Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 25, 1994

1120-11-.09 TECHNICAL ADVICE AND ASSISTANCE.

- (1) Technical questions regarding this rule may be resolved by referring questions to the agency personnel section.
- (2) Unresolved technical questions to an agency personnel section may be resolved by referring such to the Department of Personnel, Employee Relations Division.
- (3) Disputes over grievability may be resolved by an agency's appointing authority or by the Commissioner. The Civil Service Commission may review such determinations and, at its discretion, take whatever action it deems appropriate.
- (4) The intent of this policy is to legally, efficiently, and fairly resolve bona fide complaints, and grievances. The initiation of a grievance should not be considered as a negative reflection against an employee, supervisor, or agency management, but should be considered as an effort to communicate and seek resolution of work related problems.
- (5) Management should consider grievances objectively, fairly, and expeditiously while maintaining a helpful, cordial, and professional attitude throughout the process of redress.

Authority: T.C.A. § 8-30-328. . **Administrative History:** (For history prior to January 2, 1988, see pages 1-2).
Repeal and new rule filed November 18, 1987; effective January 2, 1988